

MINUTES

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

W. HAROLD ALBRITTON, SENIOR U. S. DISTRICT JUDGE, PRESIDING, AT MONTGOMERY, AL

DATE COMMENCED: February 7, 2007 AT: 9:12 a.m.
DATE COMPLETED: February 7, 2007 AT: 10:24 a.m.

UNITED STATES OF AMERICA)
)
vs.) CR. No. 2:06cr205-WHA
)
SEBASTIAN K. SMITH, JR.)

APPEARANCES:

GOVERNMENT

Christopher Snyder

DEFENDANT

Donnie W. Bethel

COURT OFFICIALS PRESENT

Risa Entrekin, Court Reporter Jakki Caple, USPO
Elna Behrman, Courtroom Deputy Scott Wright, USPO
Daniel Harrell, Law Clerk

COURTROOM PROCEEDINGS

(X) SENTENCING HEARING

Hearing commences.

Court states it has reviewed the file and the Plea Agreement and will not accept the Plea Agreement due to the Plea Agreement calling for sentencing at the low end of the guidelines.

Court further states Defendant may withdraw his plea if he wishes to do so.

Government responds.

Defendant's counsel states Defendant does not wish to withdraw his plea.

Court addresses the Defendant on the issue.

Defendant states he does not wish to withdraw his plea.

Court takes the matter of the Defendant's objection as to the overstatement of the criminal history in the presentence report and the Motion for Downward Departure (Doc. #45).

Defendant presents testimony in support of the objection and motion.

Government presents testimony and argues in opposition.

After explanation, the court overrules the objection and DENIES the Motion for Downward Departure (Doc. #45).

Court orally GRANTS the Government's Motion for Downward Departure as to the acceptance of responsibility (Doc. #38).

Government argues the motion as to substantial assistance.

Court orally GRANTS the Motion for Downward Departure (Doc. #38) for substantial assistance.

Defendant renews request for variance of one-level to effectuate the terms of the Plea Agreement.

Court denies the request.

Court addresses the Defendant.

Sentence is stated.

Defendant will be released under the same terms and conditions imposed by the Magistrate Judge on August 24, 2006 until surrender on March 23, 2007.

Defendant's counsel objects to the sentence as being unreasonable.

Court overrules the objection.

Sentence is ORDERED imposed as stated.

Defendant is advised of his right to appeal.

Government orally moves to dismiss Count 1 of the Indictment.

Court orally GRANTS the motion, and Count 1 of the Indictment is DISMISSED.

Court is adjourned.

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FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA

vs.

SEBASTIAN K. SMITH, JR.

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Case No. 2:06cr205-WHA

WITNESS LIST

GOVERNMENT

Jacquelyn Caple

DEFENDANT

Sebastian K. Smith, Jr.
Sebastian K. Smith, Sr.